

NO TO JUDGE PM

John C. Coughenour
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CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

John C. Coughenour
Hon. John C. Coughenour

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APR 30 2002

CLERK U.S. DISTRICT COURT
BY *John C. Coughenour*
WESTERN DISTRICT OF WASHINGTON
DEPUTY

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DAVID F. POTTER,) NO. C01-1935C (BJR)
Plaintiff,) WTO Proceeding
v.)
CITY OF SEATTLE, et al.,) MOTION, AFFIDAVIT AND
Defendants.) ORDER OF DISMISSAL WITHOUT
PREJUDICE

Noted for Motion Calendar:
Date of Filing

I. Motion

COMES NOW plaintiff David F. Potter, by and through his attorney, John R. Muenster, and moves the Honorable Court for an order dismissing the above-entitled action without prejudice, because it appears that a King County police officer and King County are the proper defendants in this action.

MOTION, AFFIDAVIT AND ORDER OF
DISMISSAL WITHOUT PREJUDICE- 1

B
MUENSTER & KOENIG
JOHN R. MUENSTER, INC., P.S.
999 THIRD AVE., SUITE 4100
SEATTLE, WASHINGTON 98104
(206) 467-7500
FAX: (206) 467-0101

THIS MOTION is based upon the records, files and proceedings heretofore had herein, and upon the subjoined affidavit of counsel.

DATED this the 12 day of April, 2002.

Respectfully submitted,

MUENSTER & KOENIG

By: 
JOHN R. MUENSTER
Attorney at Law
WSBA No. 6237
Of Attorneys for Plaintiff

II. Affidavit

STATE OF WASHINGTON)
) ss:
COUNTY OF KITSAP)

JOHN R. MUENSTER, being duly sworn, deposes and says:

1. I am retained counsel for plaintiff David F. Potter in the above-entitled action and make this affidavit in that capacity. I am familiar with the records, files and proceedings heretofore had herein.

2. Based on further work in this case, I now believe that Mr. Potter was pepper-sprayed by a King County police officer, rather than a Seattle police officer, in connection with the events described in the complaint.

**MOTION, AFFIDAVIT AND ORDER OF
DISMISSAL WITHOUT PREJUDICE-2**

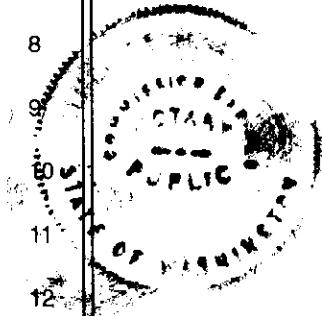
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SEATTLE, WASHINGTON 98104
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3. Accordingly, the above-entitled action should be dismissed without prejudice.

DATED this the 30th day of April, 2002.

JOHN R. MUENSTER

SUBSCRIBED AND SWORN TO before me this the 25th day of April, 2002.



NOTARY PUBLIC in and for the State of Washington
Residing at Tukwila, Washington
My commission expires: 3/13/03

My commission expires: 3/13/03

III. Order

Based upon the foregoing motion and affidavit, the Court hereby orders that the above-entitled action be, and the same hereby is, dismissed without prejudice.

DATED this the 50 day of April, 2002.

UNITED STATES DISTRICT JUDGE

Presented by:

MUENSTER & KOENIG

By: John R. Muenster

JOHN R. MUENSTER
Attorney at Law
WSBA No. 6237
Of Attorneys for Plaintiff

**MOTION, AFFIDAVIT AND ORDER OF
DISMISSAL WITHOUT PREJUDICE- 3**

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